

SESSION OF 2002

SUPPLEMENTAL NOTE ON SENATE BILL NO. 408

As Recommended by Senate Committee on
Assessment and Taxation

Brief*

SB 408 would clarify current law regarding how income is reported for Kansas corporate income tax purposes. The bill would confirm that Kansas uses a transactional test to determine whether income is apportionable business income. Under the transactional test, the controlling factor for the determination of business income is the nature of the particular transaction giving rise to the income. To be business income, the transaction and activity must have been in the regular course of the taxpayer's business operations.

Background

The Senate Committee held a hearing on SB 408, at which time proponents of the bill included representatives of the Kansas Chamber of Commerce and Industry, the Tax Coalition, and the Kansas Department of Revenue.

Under current law a distinction is made between "business income," which is apportioned to all states in which a taxpayer does business, and "non-business income," which is generally allocated to the state of commercial domicile of the taxpayer. There are two tests to determine whether income is apportionable business income: the transactional test and the functional test. Kansas has traditionally used the transactional test, which is narrower than the functional test. In 1996, legislation was enacted which enabled taxpayers to elect, for ten-year increments, to treat all income as business income. Senate conferees explained that the 1996 legislation has been interpreted by some to have adopted the functional test in Kansas. SB 408 would clarify that this was not the case and that Kansas still uses the transactional test.

* Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.accesskansas.org/legislature/>

The Senate Committee recommended that SB 408 be placed on the Consent Calendar.

The Division of the Budget reports that there is no fiscal effect associated with SB 408.